



REQUEST FOR APPEAL
FOR E-RATE FUNDING YEAR 2011

March 6, 2012

VIA FEDERAL EXPRESS

Marlene H. Dortch, Secretary
Federal Communications Commission
Office of the Secretary
9300 East Hampton Drive
Capitol Heights, MD 20743

RE: Request for Review

FCDL denial dated February 14, 2011

Applicant Name:	Chicago Public Schools
Entity Number:	135749
Form 471 Application Number:	819303
Funding Request Number:	2229423
Funding Year:	FY 2011
Service Provider Name:	Quantum Crossing, Inc.
Denial Amount:	\$554,852.16

Contact for this Appeal:

Pamela D. Flowers
E-Rate Manager
Chicago Public Schools
125 S. Clark St., 3rd Floor
Chicago, IL 60603
773-553-1352 (Telephone)
773-553-1368 (Fax)

To Whom It May Concern:

Funding for the referenced FRN was denied by the USAC for the stated reason that, "The Form 470 that established the competitive bidding process for this FRN did not include service of this type; therefore it does not meet the 28 day competitive bidding requirement." This document is being filed by Chicago Public Schools ("CPS") to appeal this funding denial.

Discussion:

CPS became aware that the Form 470 (# 750890000853166) did not post for Internal Connections, on April 14, 2011 during PIA review. This inquiry alerted CPS to the fact that a ministerial and clerical error was made when filing the above stated Form 470. We did not select the box to include Internal Connections. However, the associated RFP did request bids on the internal connections services. CPS uses RFPs to advertize for potential bidders and potential bidders are aware of this fact. Therefore, this ministerial error in no way stifled the competitive bidding process. With the posting of the RFP, CPS did comply with the 28 day competitive bidding requirement. Any interested bidder would have reviewed the RFP and clearly known the services CPS was interested in procuring

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For your review, we have provided for you a copy of the RFP which clearly states the request for internal connections service. Also, we have provided for your review, copies of the proposals that CPS received regarding the previous stated RFP. All submittals proposed to supply services for the internal connections as requested by the RFP.

In addition to show a history of this process, we have provided you with additional documents (the RFP and responses) from the previous request for the above stated services. As the documentation shows, CPS received three bids for this service in 2011. When CPS last put this service out to bid in 2005 and did not make this ministerial error, we received three bids for this service. Two companies responded to both of the RFPs posted, in 2005 and 2011. The fact that this ministerial error did not impact the number of bids received, demonstrates that potential bidders understand that CPS procures all of its services via an RFP and they know where to locate the RFPs. An additional consideration is that the vast majority of vendors that provide basic maintenance services also provide the underlying internal connections. Therefore, the same pool of vendors would be responding to a Form 470 requesting either basic maintenance or internal connections.

If the FCC decides that program rules were indeed violated, we humbly request a waiver of the rules. As we have demonstrated this ministerial error did not dissuade vendors from bidding on the RFP. The facts are simple an error was made and the error did not impact the bidding process. In Orders over the last several years the FCC has consistently found good cause to waive its rules when¹:

- (1) the errors they made on the application are ministerial or clerical and do not warrant a complete rejection of their application; or
- (2) their competitive bidding processes were not compromised by their technical violation of the Commission's competitive bidding requirements; or
- (3) the errors were not the result of waste, fraud, or abuse

¹ See Federal-State Joint Board on Universal Service, CC Docket No. 96-45, Report and Order, 12 FCC Rcd 8776, 9029, para. 481 (1997) (subsequent history omitted); Federal-State Joint Board on Universal Service, Access Charge Reform, Price Cap Performance Review for Local Exchange Carriers, Transport Rate Structure and Pricing, End User Common Line Charge, CC Docket Nos. 96-45, 96-262, 94-1, 91-213, and 95-72, Report and Order and Fourth Order on Reconsideration, 13 FCC Rcd 5318, 5452-53, para. 233 (1997); Request for Review by the Department of Education of the State of Tennessee of the Decision of the Universal Service Administrator, Request for Review by Integrated Systems and Internet Solutions, Inc., of the Decision of the Universal Board of Directors of the National Exchange Carrier Association, Inc., CC Docket Nos. 96-45 and 97-21, Order, 14 FCC Rcd 13734 (1997); Request for Review by Ysleta Independent School District of the Decision of the Universal Service Administrator, CC Docket Nos. 96-45, 97-21, Order, 18 FCC Rcd 26407 (2003); Request for Review of the Decision of the Universal Service Administrator by Academia Discipulos de Cristo Bayamon, Puerto Rico, et al., Schools and Libraries Universal Service Support Mechanism, CC Docket No. 02-6, Order, 21 FCC Rcd 9210 (2006); Request for Review of the Decision of the Universal Service Administrator by Academy of Careers and Technologies, et al., Schools and Libraries Universal Service Support Mechanism, CC Docket No. 02-6, Order, 21 FCC Rcd 9220 (2006); Request for Review of the Decision of the Universal Service Administrator by Approach Learning and Assessment Center, et al., Schools and Libraries Universal Service Support Mechanism, CC Docket No. 02-6, Order, 23 FCC Rcd 15510 (2008); Request for Review of the Decision of the Universal Service Administrator by Coahoma County School District, Schools and Libraries Universal Service Support Mechanism, CC Docket No. 02-6, Order, 26 FCC Rcd 11201 (2011); Request for Review of the Decision of the Universal Service Administrator by Allendale County School District, et al., Schools and Libraries Universal Service Support Mechanism, CC Docket No. 02-6, Order, 26 FCC Rcd 6190 (2011); Request for Review of the Decision of the Universal Service Administrator by Baltimore City School District, Cobb County School District, Schools and Libraries Universal Service Support Mechanism, CC Docket No. 02-6, Order, 26 FCC Rcd 11193 (2011).



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We feel that our situation is tantamount to many other appeals where the FCC has decided to waive its rules. In no way did this error bring harm to a program participant or result in CPS or the E-Rate program paying more than what it would have had the error not been made. We strongly believe that the facts warrant a waiver of the rules and such a decision would be in the public interest and consistent with precedent.

Summary:

CPS recognizes that a small clerical error was made by not selecting internal connections on the above stated 470. However, CPS did post and advertize a RFP which indeed requested internal connections services. This is clearly evident based on the proposals that CPS received in response the posted RFP. Therefore, it is our belief that CPS complied with requesting internal connections during the competitive bidding process and met the 28 day competitive bidding process.

We ask that FCC reverse this denial and restore full funding, in the amount of **\$554,852.16**, to this FRN. If the FCC believes its rules were violated we request a waiver of the relevant rules.

If you have any questions concerning this matter, please contact my office at (773) 553-1346 or Pamela D. Flowers, E-Rate Manager at (773) 553-1352

Sincerely,

A handwritten signature in black ink, appearing to read "Anthony", followed by a long horizontal line extending to the right.

Anthony Mcphearson
Acting Chief Information Officer



Universal Service Administrative Company

Schools and Libraries Division



FUNDING COMMITMENT DECISION LETTER
(Funding Year 2011: 07/01/2011 - 06/30/2012)

February 14, 2012

Pamela D. Flowers
CHICAGO PUBLIC SCHOOLS
125 S CLARK ST, 3RD FLOOR
CHICAGO, IL 60603

Re: Form 471 Application Number: 819303
Billed Entity Number (BEN): 135749
Billed Entity FCC RN: 0008008971
Applicant's Form Identifier: FY11-471-IC2A-CPS

Thank you for your Funding Year 2011 application for Universal Service Support and for any assistance you provided throughout our review. The current status of the funding request(s) in the Form 471 application cited above and featured in the Funding Commitment Report(s) (Report) at the end of this letter is as follows.

- The amount, \$554,852.16 is "Denied."

Please refer to the Report following this letter for specific funding request decisions and explanations. The Universal Service Administrative Company (USAC) is also sending this information to your service provider(s) so preparations can begin for implementing your approved discount(s) after you file FCC Form 486, Receipt of Service Confirmation Form. A guide that provides a definition for each line of the Report is available in the Reference Area of our website.

NEXT STEPS

- Work with your service provider to determine if you will receive discounted bills or if you will request reimbursement from USAC after paying your bills in full
- Review technology planning approval requirements
- Review CIPA requirements
- File Form 486
- Invoice USAC using the Form 474 (service provider) or Form 472 (Billed Entity applicant) - as products and services are being delivered and billed

TO APPEAL THIS DECISION:

You have the option of filing an appeal with the SLD or directly with the Federal Communications Commission (FCC).

If you wish to appeal a decision in this letter to USAC, your appeal must be received by USAC or postmarked within 60 days of the date of this letter. Failure to meet this requirement will result in automatic dismissal of your appeal. In your letter of appeal:

1. Include the name, address, telephone number, fax number, and (if available) email address for the person who can most readily discuss this appeal with us.
2. State outright that your letter is an appeal. Include the following to identify the letter and the decision you are appealing:
 - Appellant name,
 - Applicant name and service provider name, if different from appellant,
 - Applicant BEN and Service Provider Identification Number (SPIN),
 - Form 471 Application Number 819303 as assigned by USAC,
 - "Funding Commitment Decision Letter for Funding Year 2011," AND
 - The exact text or the decision that you are appealing.

3. Please keep your letter to the point, and provide documentation to support your appeal. Be sure to keep a copy of your entire appeal, including any correspondence and documentation.
4. If you are the applicant, please provide a copy of your appeal to the service provider(s) affected by USAC's decision. If you are the service provider, please provide a copy of your appeal to the applicant(s) affected by USAC's decision.
5. Provide an authorized signature on your letter of appeal.

To submit your appeal to USAC by email, email your appeal to appeals@sl.universalservice.org. USAC will automatically reply to incoming emails to confirm receipt.

To submit your appeal to USAC by fax, fax your appeal to (973) 599-6542.

To submit your appeal to USAC on paper, send your appeal to:

Letter of Appeal
Schools and Libraries Division - Correspondence Unit
30 Lanidex Plaza West
PO Box 685
Parsippany, NJ 07054-0685

If you wish to appeal a decision in this letter to the FCC, you should refer to CC Docket No. 02-6 on the first page of your appeal to the FCC. Your appeal must be received by the FCC or postmarked within 60 days of the date of this letter. Failure to meet this requirement will result in automatic dismissal of your appeal. We strongly recommend that you use the electronic filing options described in the "Appeals Procedure" posted in the Reference Area of our website. If you are submitting your appeal via United States Postal Service, send to: FCC, Office of the Secretary, 445 12th Street SW, Washington, DC 20554.

OBLIGATION TO PAY NON-DISCOUNT PORTION

Applicants are required to pay the non-discount portion of the cost of the products and/or services to their service provider(s). Service providers are required to bill applicants for the non-discount portion. The FCC stated that requiring applicants to pay their share ensures efficiency and accountability in the program. If USAC is being billed via the FCC Form 474, the service provider must bill the applicant at the same time it bills USAC. If USAC is being billed via the FCC Form 472, the applicant pays the service provider in full (the non-discount plus discount portion) and then seeks reimbursement from USAC. If you are using a trade-in as part of your non-discount portion, please refer to our website for more information.

NOTICE ON RULES AND FUNDS AVAILABILITY

Applicants' receipt of funding commitments is contingent on their compliance with all statutory, regulatory, and procedural requirements of the Schools and Libraries Program. Applicants who have received funding commitments continue to be subject to audits and other reviews that USAC and/or the FCC may undertake periodically to assure that funds that have been committed are being used in accordance with all such requirements. USAC may be required to reduce or cancel funding commitments that were not issued in accordance with such requirements, whether due to action or inaction, including but not limited to that by USAC, the applicant, or the service provider. USAC, and other appropriate authorities (including but not limited to the FCC), may pursue enforcement actions and other means of recourse to collect improperly disbursed funds. The timing of payment of invoices may also be affected by the availability of funds based on the amount of funds collected from contributing telecommunications companies.

Schools and Libraries Division
Universal Service Administrative Company

FUNDING COMMITMENT REPORT
Billed Entity Name: CHICAGO PUBLIC SCHOOLS
BEN: 135749
Funding Year: 2011

Comment on RAL corrections: MR1: Form 471, Block 1 was modified in accordance with applicant request. <><><><><> MR2: 71744 GALE ELEMENTARY and 70312 AVONDALE ELEMENTARY have been removed from Block 4 Worksheet 1378779 at the request of the applicant. <><><><><> MR3: 70542 GALE ACADEMY has been added to Block 4 Worksheet 1378779 at the request of the applicant. <><><><><> DR1: The Form 470 that established the competitive bidding process for this FRN did not include service of this type; therefore it does not meet the 28 day competitive bidding requirement.

Form 471 Application Number: 819303
Funding Request Number: 2229423
Funding Status: Not Funded
Category of Service: Internal Connections
Form 470 Application Number: 750890000853166
SPIN: 143024292
Service Provider Name: Quantum Crossings, LLC
Contract Number: 10-250045
Billing Account Number: N/A
Multiple Billing Account Numbers: N
Service Start Date: 07/01/2011
Service End Date: N/A
Contract Award Date: 03/24/2011
Contract Expiration Date: 06/30/2012
Shared Worksheet Number: 1378779
Number of Months Recurring Service Provided in Funding Year: 12
Annual Pre-discount Amount for Eligible Recurring Charges: \$.00
Annual Pre-discount Amount for Eligible Non-recurring Charges: \$616,502.40
Pre-discount Amount: \$616,502.40
Discount Percentage Approved by the USAC: 90%
Funding Commitment Decision: \$0.00 - Svcs. not requested on F. 470
Funding Commitment Decision Explanation: DR1: The Form 470 that established the competitive bidding process for this FRN did not include service of this type; therefore it does not meet the 28 day competitive bidding requirement.

FCDL Date: 02/14/2012
Wave Number: 034
Last Allowable Date for Delivery and Installation for Non-Recurring Services: 09/30/2012
Consultant Name: Winston Himsworth
Consultant Number (CRN): 16060891
Consultant Employer: Erate Central



USAC

Universal Service Administrative Company
Schools and Libraries Division

Correspondence Unit

30 Lanidex Plaza West

PO Box 685

Parsippany, NJ 07054-0685

TIME SENSITIVE MATERIAL

00030

Pamela D. Flowers

CHICAGO PUBLIC SCHOOLS

125 S CLARK ST, 3RD FLOOR

CHICAGO, IL 60603

